

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

KEITH ALLEN,)	CASE NO. 4:09 CV 2194
)	
Petitioner,)	JUDGE JOHN R. ADAMS
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
YOUNGSTOWN MUNICIPAL COURT,)	<u>AND ORDER</u>
et al.,)	
Respondents.)	

On September 22, 2009, petitioner *pro se* Keith Allen filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Allen, who is incarcerated at the Mahoning County Jail, seeks to challenge the computation of his sentence imposed by the Youngstown Municipal Court.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

Without regard to the potential merits of the issue Allen seeks to raise, there is no suggestion on the petition that he has yet to raise and exhaust his claim in the Ohio courts. The petition is thus premature.

Accordingly, the request to proceed *in forma pauperis* is granted and this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not

be taken in good faith, and that there is no basis on which to issue a certificate of appealability.

Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

DATE: November 16, 2009

/s/ John R. Adams
JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE